

JUSTIFICATION  
FOR AN EXCEPTION TO FAIR OPPORTUNITY

1. Contracting Activity: Department of Veterans Affairs (VA)  
Office of Acquisition Operations  
Technology Acquisition Center  
23 Christopher Way  
Eatontown, New Jersey 07724
2. Description of Action: The proposed action is for a firm-fixed-price delivery order under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) V, Governmentwide Acquisition Contract (GWAC), for PegaSystems, Incorporated (Pega) software, software maintenance, consulting services, and training.
3. Description of the Supplies or Services: The VA Financial Services Center (FSC) requires Pega software, software maintenance, consulting services, and training to expand the VA Customer Process Management (CPM) Call Center. The CPM Call Center is responsible for taking customer inquiries in a call center environment regarding enterprise wide questions, issues, and systems support including, but not limited to, accounts payable, receivables, invoice processing, financial transactions, travel, payroll, medical claims, and VA wide payments. This proposed action is to purchase Pega software, specifically, 100 Pega Customer Processor Manager (Pega CPM) software suite licenses, software maintenance, consulting services, and training to integrate with current infrastructure comprised of Pega Business Process Management (Pega BPM) software licenses. The components of the Pega CPM software suite are Pega Rules Process Commander 7 for Government, Customer Process Manager, Internet Application Composer, Autonomic Event Services, Pega Call, and Pega Chat. The Pega CPM suite will assist FSC in processing over 100,000 commercial payments per month, thus ensuring commercial vendors are receiving timely payments without jeopardizing benefits and healthcare to Veterans. In addition, the CPM suite will assist with non-VA healthcare referral and authorization, enrollment and eligibility, and hospital notification services provided by FSC to the Veterans Health Administration. The Pega CPM suite will eliminate over/under payments made to non-VA care providers, which will allow non-VA providers to process claims in a timely manner without delays. VA-FSC will avoid healthcare risk for Veterans. VA FSC intends on entering into a contract that potentially extends five years as VA FSC owns the Pega BPM software suite and maintaining the current software eliminates the financial risk of having to conduct a major software replacement as well as assures VA FSC that performance and technical risks will be minimized throughout the five year period by keeping the software suite up to date. This action will include option for 500 additional licenses, maintenance, training, and consulting services. VA requires one 12-month base period and four 12-month option periods to allow for continued software maintenance of the existing Pega software licenses and to provide flexibility in increasing the number of users while VA FSC consolidates its

help desk, payroll, and tour of duty functions over the next five years. The period of performance shall be one 12-month base period and four 12-month option periods for continued software maintenance. Software licenses shall be delivered within 30 days of receipt of order. Prior to exercising each option, VA will conduct extensive market research to ensure no other products can meet VA's needs. The total estimated price of the proposed action is [REDACTED], including options.

4. Statutory Authority: The statutory authority permitting an exception to fair opportunity is Section 41 U.S.C. § 4106(c)(2) as implemented by the Federal Acquisition Regulation (FAR) Subpart 16.505(b)(2)(i)(B), entitled "Only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized."
5. Rationale Supporting Use of Authority Cited Above: Based on extensive market research, as described in paragraph 8 of this document, it was determined that limited competition is viable among authorized resellers for this software, maintenance, consulting services, and training. Pega software is the only software that meets VA's requirement to integrate with the current VA-owned Pega BPM suite. Only Pega or an authorized reseller can provide the required software maintenance to include upgrades, updates, and the resolution of software bugs and fixes for the Pega CPM software suite because no other providers have access to the proprietary source code. Access to the proprietary source code is required in order to modify, i.e. upgrade, update, and/or resolve software bugs and fixes. Without the continued software maintenance, the effectiveness of VA's CPM Call Center would decline as process interruptions, delays, and the issuance of inaccurate insurance payments would be experienced.

VA intends to leverage and expand the existing Pega software as the base suite line, therefore eliminating duplicative expenditures that would be realized if the existing Pega software base suite were replaced. By leveraging the existing Pega BPM suite, it allows VA to reuse application development assets for future projects resulting in a reduction of time, cost, and risk. VA requires software and software maintenance that is interoperable and compatible with the existing infrastructure protocols and functionality for continued operational availability. Pega owns all proprietary programming language and intellectual property of its software.

Only Pega or its authorized resellers can provide premium maintenance services for Pega's perpetual licenses currently utilized by VA. Pega owns the proprietary rights to the perpetual license, software updates, customer support, and technical updates and only Pega or its authorized resellers can provide the required maintenance services. This software is peculiar to one manufacturer and must align and integrate with other systems currently in use. No other software providing this functionality is interoperable and compatible with Pega and utilizing a different manufacturer's software would require a massive overhaul of the software infrastructure if VA FSC did not maintain the Pega software suite. In addition, if another brand name was utilized in the current Pega infrastructure, it would not communicate with the existing Pega items due to the aforementioned proprietary constraints. Except for the license

granted, all rights, title and interest (including intellectual property rights) in the software remain with the licensor. The license prohibits any reverse engineering, disassembly, recompilation, modification or duplication of the software.

Additionally, FSC requires Pega or an authorized reseller to provide consulting services and training for the Pega CPM software suite. Any source that provides the consulting services and training must possess extensive knowledge and the requisite certification from Pega to perform these services.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in the market research section of this document. This effort did not yield any additional sources that can meet the Government's requirements. It was determined however that limited competition is viable among authorized resellers for the brand name software, consulting support, training, and maintenance services for the VA CPM Call Center. In accordance with FAR 16.505(a)(4)(iii)(A)(2), the justification will be provided with the solicitation to all appropriate NASA SEWP V vendors. Furthermore, in accordance with FAR 5.301 and 16.505(b)(2), this action will be synopsisized at award on the Federal Business Opportunities Page and the justification will be made publicly available.
7. Actions to Increase Competition: The Government will continue to conduct market research to ascertain if there are changes in the market place that would enable future actions to be competed. There are no plans to replace the current Pega software in the foreseeable future as VA FSC owns the Pega base suite which the agency leverages and builds off of to reuse application development assets for current and future projects. This effort reduces project time, cost and risk to the agency in addition to eliminating duplicative expenditures for new software projects. End of life cannot be determined at this point in the product lifecycle as this software is an integral part of the agency's daily operations. Limited competition is viable among Pega's authorized resellers.
8. Market Research: Market research was conducted in October 2015 by VA technical experts to ascertain the ability of similar products to integrate and maintain compatibility within the existing Pega infrastructure. Market research was conducted via the NASA SEWP V GWAC website, General Services Administration Advantage tool, FedBizOpps, and independent website search using the Google search engine. VA technical experts reviewed software and software maintenance services offered by other manufacturers who produce similar products and offer similar software maintenance such as Microsoft Dynamics, CRMnext, Eptica, Lithium Social Web, mplsystems, Oracle Service Cloud, Salesforce, SAP, Sugar CRM, Verint Systems, Zendesk, and DRG Grouper. However, these similar products do not meet all of VA's functional and interoperability requirements as outlined in paragraph 5 of this justification. In conclusion, these similar products and software maintenance are not integratable or compatible with existing Pega software products currently owned and utilized by VA. It was determined that no other brand name software and software maintenance is compatible with the current infrastructure.

Further market research was conducted by VA technical experts in October 2015 to identify sources capable of providing the aforementioned Pega CPM software and services. Market research was conducted on the NASA (SEWP V Government-wide Acquisition Contract (GWAC) website using the product verification tool. The tool identified two resellers, one large business and one Service-Disabled Veteran-Owned Small Business. The market research demonstrates that limited competition exists amongst contract holders under the NASA SEWP V GWAC.

9. Other Facts: None

10. Technical and Requirements Certification: I certify that the supporting data under my cognizance, which are included in this justification, are accurate and complete to the best of my knowledge and belief.

[REDACTED]

Date: [REDACTED]

Technical Representative

Signature: [REDACTED]

11. Fair and Reasonable Cost Determination: I hereby determine that the anticipated price to the Government for this contract action will be fair and reasonable because NASA SEWP IV GWAC prices have previously been determined fair and reasonable. Additional price competition is expected among authorized resellers for this action.

[REDACTED]

Date: [REDACTED]

Procuring Contracting Officer

Signature: [REDACTED]

12. Procuring Contracting Officer Certification: I certify that this justification is accurate and complete to the best of my knowledge and belief.

[REDACTED]

Date: [REDACTED]

Procuring Contracting Officer

Signature: [REDACTED]

13. Legal Sufficiency Certification: I have reviewed this justification and find it adequate to support an exception to fair opportunity and deem it legally sufficient.

[REDACTED]

Date: [REDACTED]

Legal Counsel

Signature: [REDACTED]

Approval

In my role as Advocate for Competition, based on the foregoing justification, I approve the acquisition of Pega CPM software licenses, software maintenance, consulting services, and training, on an other than fair opportunity basis pursuant to Section 41 U.S.C 4106(c)(2), subject to the availability of funds, and provided that the property and services herein described have otherwise been authorized for acquisition.

Date [REDACTED]

Signature: [REDACTED]

Advocate for Competition  
Technology Acquisition Center  
Office of Acquisition Operations